

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

**FILED**

FOR THE NINTH CIRCUIT

MAY 15 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

JOSEPH MITCHELL,

No. 07-17065

Petitioner - Appellant,

D.C. No. CV-07-04619-SI  
Northern District of California  
San Francisco

v.

MICHAEL B. MUKASEY, Attorney  
General,

MEMORANDUM<sup>\*</sup>

Respondent - Appellee.

Appeal from the United States District Court  
for the Northern District of California  
Susan Yvonne Illston, District Judge, Presiding

Submitted May 12, 2008<sup>\*\*</sup>

Before: KOZINSKI, Chief Judge, THOMAS and CALLAHAN, Circuit Judges.

A review of the record and the response to this court's March 14, 2008 order  
to show cause indicates that the questions raised in this appeal are so insubstantial

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). Appellant is not in the custody of the Bureau of Immigration and Customs Enforcement (“ICE”). He therefore cannot challenge ICE’s action or inaction regarding his removal. *See Campos v. INS*, 62 F.3d 311, 314 (9th Cir. 1995).

Accordingly, we summarily affirm the district court’s judgment.

All pending motions are denied as moot.

**AFFIRMED.**